



**Federal Energy Regulatory Commission**  
**June 16, 2011**  
**Open Commission Meeting**  
**Staff Presentation**  
**Item E-9**

Good morning Mr. Chairman and Commissioners

- Item E-9 contains a draft Notice of Inquiry seeking comment on:
  - 1) existing restrictions on third-party provision of ancillary services, irrespective of the technologies used for such provision; and
  - 2) the adequacy of current accounting and reporting requirements as they pertain to the use and oversight of jurisdictional entities using electric storage devices.
- Both of these issues potentially impact users of energy storage devices but the first issue may impact all potential providers of ancillary services
- Regarding the third-party provision of ancillary services, the Commission's current policy was set forth in the late 90s in an order concerning Avista Corp. We refer to this as *Avista* or the *Avista* policy
  - In this context the term "third-party" means parties other than a transmission provider supplying ancillary services pursuant to its Open Access Tariff obligation at cost-based rates
  - Prior to *Avista*, the Commission had strictly required all potential market-based third-party sellers of ancillary services to submit market power studies for each ancillary service market at issue, but few entities did so
  - In *Avista*, accordingly, the Commission discussed in detail the data problems associated with performing a market power study and adopted a policy allowing third-party ancillary service providers to sell certain ancillary services at market-based rates without performing a market power study
  - However, in order to meet its statutory obligation to ensure that such third-party sales would be at just and reasonable rates, the Commission placed certain restrictions on such sales, intended to mitigate any third-party market power that might exist
    - As relevant to this discussion, one mitigating restriction was a prohibition on third-party sales to a transmission provider that is purchasing ancillary services to satisfy its own Open Access Tariff requirements to offer ancillary services to its own customers
    - The Commission reasoned that the backstop of cost-based ancillary services from the transmission provider will provide an appropriate and effective safeguard against potential anti-competitive behavior by third parties, but that discipline could be thwarted if the transmission provider could substitute purchases under non-cost-based rates for its mandatory service obligation
  - Outside of RTO/ISO markets, potential third-party suppliers of ancillary services apparently continue to have difficulty performing the studies that could demonstrate a lack of market power and, thus, allow them to sell to transmission providers

- As shown in several filings with the Commission, including a WSPP proposal from earlier this year, both third-party sellers and many potential buyers have expressed interest in remedying this situation, and many believe that the *Avista* restriction itself is in need of reform
  - Accordingly, this NOI seeks comments both on alternative methods of assessing market power for ancillary services, and alternative methods of mitigating any potential third-party market power without restricting sales to transmission providers
  - As part of this inquiry into third-party provision of ancillary services, the NOI also seeks comments on whether the goals of the recently issued Frequency Regulation Notice of Proposed Rulemaking in docket no. RM11-7-000 can be extended to regions outside the organized wholesale energy markets.
- Regarding the adequacy of current accounting and reporting requirements as they pertain to electric storage devices:
  - the NOI notes that none of the primary plant or Operation & Maintenance expense accounts, contained in the Commission's Uniform System of Accounts, specifically provides for the accounting of costs related to new energy storage resources and operations.
  - The NOI notes that this omission may make it difficult for owners of these technologies to complete their reporting requirements, which in turn could make it difficult for regulators to determine costs and establish appropriate rates for new energy storage technologies.
  - Therefore, the NOI seeks comments on a variety of accounting and reporting issues associated with the costs of energy storage resources and associated O&M expenses.
- To some extent, the issues I've just discussed were also explored in the request for comments on Storage issues that was issued by staff last year in Docket no. AD10-13-000, but not at a very detailed level.
- Having reviewed those comments along with information received in relevant cases like the WSPP proposal discussed earlier, the NOI today focuses on the two issues I described earlier and announces that all other issues addressed in the AD10-13 staff request for comments will continue to be addressed on a case-by-case basis.